

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 146 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgement?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

MULCHANDBHAI KUSHAJI SHARMA

Versus

ROHITKUMAR VISHWABANDHU PATEL

Appearance:

MR UNMESH D SHUKLA for Petitioner
MR RN SHAH for Respondent No. 1, 2

CORAM : MR.JUSTICE S.D.DAVE

Date of decision: 23/04/97

ORAL JUDGEMENT

The Appeal From Order has been admitted.

Upon hearing the learned Counsel for the appellant and the learned Counsel for the respondents, it appears that the present Appeal requires to be dismissed.

This is especially so, because the solitary grievance being made by the appellant was that the order passed by the Court below for the deposit of

Rs.27,39,000/- within a period of 30 days was not in accordance with law and that the same did not appear to be justifiable, in the facts and circumstances of the case. When the Appeal is being heard, it appears that the above said orders have been based upon the concession made by the learned Counsel for the plaintiff before the Court. Naturally, therefore, the Court was justified in placing reliance upon this concession and to order the deposit.

No other consideration has weighed before the Court below while making the order of deposit. In view of this, it appears that, the present Appeal From Order requires to be dismissed. I order accordingly. There shall be no order as to costs.

The period granted by the Court below for deposit has been over. It is hereby ordered and directed that, now, the appellant-plaintiff shall deposit the amount as ordered by the Court, on or before 30th June 1997. The Notice of Motion has been fixed for hearing on the said date. It is expected that the Court below shall proceed ahead with the matter.

The Notice of Motion shall have to be decided according to law and on merits, because I have not expressed any opinion regarding the same in the present orders. The appellant shall stand protected qua his possession in respect of the property in dispute till the Notice of Motion is decided. The other side shall also maintain the status-quo.
